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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CRIMINAL JURISDICTION

CRIMINAL APPEAL NO.1066 OF 2002
ALONG WITH
CRIMINAL APPEAL NO.296 OF 2002

CRIMINAL APPEAL NO.1066 OF 2002

Ramesh Arjun Jamdade)
Age 40 yrs., Occ.: Business)
R/at : Kedar Bungalow)
Vadujkar Estate, Baramati)
Taluka Baramati, District : Pune)
(At present in Yerawad Central)
Prison, Pune)).. APPELLANT

VERSUS

State of Maharashtra)
(Through City Police Station,)
Baramti, District : Pune.).. RESPONDENT

WITH

CRIMINAL APPEAL NO.296 OF 2002

1) Arjun Eknath Jamdade)
Age : 62 yrs., Occ.: Business)

2) Kamal Arjun Jamdade)
Age : 52 yrs., Occ.: Household)

All R/at : Kedar Bungalow)
Vadujkar Estate, Baramati)
Taluka : Baramati, District : Pune).. APPELLANTS

VERSUS

State of Maharashtra
(Through Officer-in-charge)
City Police Station, Baramati)
District : Pune)).. RESPONDENT

Mr.S.R. Chitnis, Senior Advocate, with Smt.V.R. Raje for the Appellants.

Smt.V.R. Bhosale, Additional Public Prosecutor, for the Respondent.

CORAM: V.G. PALSHIKAR AND
SMT. NISHITA MHATRE, JJ.

DATED: 12TH OCTOBER 2006

JUDGMENT : (PER SMT.MHATRE, J.)

. Once more we have before us a case where the accused husband treats his wife as a commodity rather than an "ardhangini" despite the promises made before the altar. The depraved mentality of the accused is highlighted by the avarice with which they persisted in their unjustified monetary demands made on the victim and her family. These demands were fulfilled by the family to the maximum extent which they were able to afford. However, greed got the better of the accused and they killed the proverbial goose that lays the golden egg.

2. The heinous crime which the accused have committed has been proved by the prosecution in the trial Court. The trial Court has, therefore, convicted all the accused i.e. the husband and the parents in law of the victim under Section 302 of the Indian Penal Code. They have been sentenced to suffer life imprisonment and a fine of Rs.1,000/- has been imposed on each of them. The accused have also been convicted for the offence under Section 498-A read with 34 of the Indian Penal Code as well and sentenced to suffer

rigorous imprisonment for one year and payment of fine of Rs.1,000/-. Accused No.1, the husband of the victim, has filed Criminal Appeal No.1066 of 2002. Accused Nos.2 and 3, the father and mother respectively of Accused No.1, have filed Criminal Appeal No.296 of 2002.

3. The prosecution case is that on 7th August 1999 at about 3.30 a.m. the accused set fire to the victim Varsha @ Vaishali after dousing her with kerosene. Accused No.1 lodged an ADR at about 5.30 in the morning where he stated that his wife had committed suicide by burning herself to death. He has stated that this happened while he was asleep in the bedroom which was locked from the outside. It was only when his father, who was sleeping in another room, shouted out to accused No.1 that he awoke. Accused No.1 was able to come out of the bedroom after his mother unlatched the door. He found his wife burnt to death lying prostrate in the hall.

4. The parents of the deceased were informed by her uncle that their daughter had got burnt and that they should rush to Baramati. When the parents reached Baramati at about 7.00 a.m. that morning, they went to Varsha’s matrimonial house along with Sharad Galinde, Varsha’s maternal uncle. They found their daughter lying dead with severe burn injuries, Varsha’s father lodged a complaint with the police. He named the

accused as being responsible for the death of Varsha. He has mentioned about the monetary demands made by the accused on him from time to time, the ill-treatment meted out to Varsha by the accused even during her pregnancy. After this complaint was lodged, the accused were arrested and charged for having murdered Varsha.

5. At the trial, prosecution relied on the evidence of eight witnesses. PW1 is the father of Varsha. This witness has spoken in detail about the monetary demands made on him from time to time by the accused. He has also mentioned that Varsha and accused No.1 had two sons and a daughter. The ill-treatment to Varsha, who was married to the accused for ten years, started almost immediately after marriage. Accused No.1 was running a meat shop and wanted to start a new business as well. From time to time, PW1 paid him large sums of money either when accused No.1 visited him or by sending the money to the accused. PW1 has stated in his evidence, that the accused would be appeased for a while with the money that he had paid. The demands, however, continued. The accused insisted that he sell his business and pay them the proceeds so that they could start their new business. As his daughter was being troubled, PW1 sold the permit room that he owned and received Rs.40,000/- which fact he immediately informed the accused. Accused No.2 went to the house of PW1 to collect the amount. However, the greed for money was

unsatiated. A new demand of Rs.2,00,000/- was made. About seven to eight months prior to the incident, the accused had shifted to Baramati from Pimpri. Varsha suffered from stomach pains about one and half months prior to the incident. She resided with her parents for seven to eight days and informed them that the demand for Rs.2,00,000/- from the accused was getting more persistent. She spoke of the ill-treatment that she suffered because this demand had not been made by PW1. PW1 informed her that it was not possible to raise this sum as he had just spent a large amount for his daughter Manisha's wedding. Varsha returned to her matrimonial home after PW1 convinced her that he would do his best to collect some amount. This witness has then spoken of the telephone call that he received at about 3.30 a.m. from his brother-in-law Arvind, who informed him about the burn injuries sustained by Varsha. This witness left with his wife and other relatives at about 5.00 a.m. and reached Baramati at 7.00 in the morning. He has described the condition of the house of the accused when he reached Baramati. When he entered the house, he saw the dead body of Varsha with burns above the thighs. There were burns on her face, her tongue was limp and was protruding out of the buccal cavity. There was an odour of kerosene in the room. A match box was lying near the dead body. The light fittings had melted. The wall clock had fallen of the wall. Black hand prints were seen on the walls. The windows were closed and

there was black soot on the glass panes. The police reached the spot and the witness states that he told them that the accused had set his daughter on fire. The accused has also pointed out to the police and the panchas a bed in the room used for worship. Black foot prints were found on that bed. A barrel with a pot containing kerosene placed on it were seen under the staircase. Clothes coloured with soot were lying in the verandah. The witness has stated that the photographer was called by the police and photographs of the scene of offence were taken. The cross-examination of this witness does not deflect from the statements made by him in the examination-in-chief.

6. PW2 is the mother of the deceased. She has corroborated the evidence of PW1 completely. She has also spoken of the harassment to her daughter and the monetary demands made by the accused. This witness has further stated that they fulfilled some of the demands of the accused.

7. The next witness examined by the prosecution is the brother of PW3. He was a resident of Baramati. He has spoken about the contracts undertaken by accused Nos.1 and 2 for demolishing old structures and the loan taken from him by accused No.2 of Rs.11,500/-. He learnt of the burns suffered by Varsha when accused No.2 went to his house at about 3.00 a.m. in the morning on

7th August 1999. His brother Arvind then phoned Varsha's parents about the incident. He has stated that he went with PW1 and PW2 to the house of the accused and saw the dead body of Varsha. He has corroborated the evidence of PW1 when he speaks of the walls and glass panes of the house being blackened with soot. He has also mentioned about the electric fittings having melted and that the house was smelling of kerosene. Again, this witness has stood firm which being cross-examined.

8. PW4 is the cousin of PW3. He has also corroborated the evidence of PW1 and PW3 regarding the state of the house of the accused when he went there along with Varsha's parents after her death. This witness in fact is a panch witness and has proved the spot panchanama. He has described the topography of the house and the manner in which it was found when the panchanama was drawn. He has also proved the seizure panchanama which indicates that the barrel under the staircase and the pot containing the kerosene were attached besides other things. The clothes of the accused No.1 and accused No.2 which were covered with soot were attached. The match box, half burnt clothes and other articles covered with soot were also seized.

9. The Doctor who conducted the post mortem examination on the dead body of Varsha has opined that she had suffered 82% burn injuries which ranged from

deep to superficial burns. The clothes were partly stuck on the body. The Doctor has also opined that the death was as a result of cardio respiratory arrest due to asphyxia. This witness has stated that in burn cases, if carbon monoxide and carbon dioxide are inhaled, then the victim would suffer from asphyxia. The deposition of PW1 and the spot panchanama indicate that the windows of the hall were closed. Obviously, therefore, the deceased had inhaled the gases emitted while she was in flames, there being no ventilation. There were no burn injuries sustained by the victim below the knew joints.

10. The next witness examined is the photographer PW6 who had taken the photographs of the scene of offence. PW7 is the Police Head Constable who had recorded the ADR which was registered as AD No.59/1999. This ADR was registered at the instance of accused No.1. He has narrated the information given by accused No.1. PW8 is the Investigating Officer who has also spoken about the state in which the house of the accused was found when he went there for investigations.

11. The evidence of the witnesses examined for the prosecution, in our opinion is cogent, believable and can be accepted. As stated earlier, PW1 and PW2 have corroborated each other with respect to the ill-treatement meted out to their daughter, the

ceaseless monetary demands made by the accused and the fact that they had often fulfilled the demands in the best way possible for them. PW3 and PW4 have corroborated the evidence of PW1 regarding the state of the house of the accused. We have no difficulty in accepting this evidence.

12. Admittedly, the entire case rests on circumstantial evidence. The circumstances which the prosecution relies on for completing the chain are :

(i) that the accused and the victim were last seen together when they retired for the night on 6th August 1999;

(ii) that the dead body of the victim was found charred;

(iii) the kerosene smell on the body;

(iv) that the medical evidence on record indicates the brutal manner in which the accused had committed the crime;

(v) that the state of the house indicated the manner in which the crime was committed;

(vi) the accused not having made any efforts to save the deceased;

(vii) the demands made by the accused from time to time on PW1 for money; and

(viii) that the accused had a motive to kill the deceased.

13. The learned Counsel appearing for the accused submitted that the theory of the prosecution that it was the accused who had set the deceased on fire should not be accepted. He submits that in fact the death is suicidal and not homicidal. According to him, there is ample evidence on record to indicate that the victim had committed suicide in order to get out of the clutches of her husband and in laws. He submits that if one is to believe that the accused were ill-treating the victim, the theory of suicide is not farfetched and is not probable in the circumstances. The learned Counsel submits that although the accused and the deceased were last seen together when they retired for the night, the dead body of the victim was found in the hall while the accused was in the bedroom which was latched from the outside. It was only when his mother, accused No.3,

unlatched the door, that he could go out of the bedroom. However, that proved to be too late. The learned Counsel submits that it was impossible in such circumstances for accused No.1 to make any efforts to save the victim.

14. Having given our anxious consideration to the submissions of the learned Counsel, we are unable to accept the theory of suicide. We have seen the photographs which have been exhibited in this case. These indicate the cruelty with which this gruesome crime has been committed. The windows were shut. The accused set fire to the deceased who was then pregnant. She tried her best to escape which is obvious from the manner in which she has moved around the house leaving behind telltale foot prints. We can only imagine the pain which she must have endured while she was in flames from the manner in which she has moved about the house leaving hand prints on the wall and other places, looking for an escape route. The viciousness with which this crime has been committed by the accused leaves us bewildered. And what is the reason or motive for the crime? Obviously her inability to satiate the greed of the accused. Despite the monetary demands having been met by PW1 from time to time in the manner that he could afford for the ten years that Varsha was married to accused No.1, the demands for money did not cease. The evidence of PW1 corroborated by PW2 indicates the

ill-treatment meted out to Varsha since they were unable to fulfil the frequent demands of the accused for money in time.

15. The depravity of accused No.1 and his shamelessness is demonstrated by the fact that he lodged an ADR with the police at about 5.30 a.m. He did nothing to help his wife extinguish the fire. There was no remorse on his part for having set her on fire. We have no manner of doubt that the accused are responsible for the death of Varsha.

16. The demands made by accused No.2 and the fact that he received Rs.40,000/- from PW1 has been established by the prosecution. The prosecution has also established that the demand for Rs.2,00,000/- from accused Nos.1 and 2 was proximate to the death of the deceased. The prosecution has also established that accused Nos.2 and 3 were sleeping in the room meant for worship which was next to the hall. The foot prints of the deceased were found on their bed. Accused Nos.2 and 3, therefore, had sufficient opportunity to put out the fire, if they were so inclined. Obviously, they were hand in glove with accused No.1 and had the intention to kill Varsha. We, therefore, confirm the conviction and sentence of the accused.

17. In the result, both the Appeals fail and are

dismissed.

(V.G.PALSHIKAR, J.)

(SMT.NISHITA MHATRE, J.)